

# Collective consultation for redundancy

## 1 . When you must consult

Redundancy is usually a type of dismissal when a role is no longer needed. Before you select anyone for redundancy, you should hold a consultation.

Consultation means discussing and seeking agreement with employees on:

- ways to avoid or reduce redundancies
- ways to reduce the impact of redundancy on affected employees

Collective consultation is where you must consult on your redundancy proposals with any recognised trade union, or if there is not one, employee representatives.

The law that covers collective consultation is the Trade Union and Labour Relations (Consolidation) Act 1992.

By law, you must hold collective consultation where all of the following apply:

- you're proposing 20 or more redundancies
- the redundancies are in one establishment – not necessarily in your organisation as a whole, which may be much larger
- you propose to make the redundancies within a 90-day period

It can still be good practice to collectively consult even if you do not have to. It can help you minimise risk where the number of proposed redundancies is close to, or might reach, 20.

You should also consult with employees individually.

## What counts towards the number of redundancies

When counting how many employees could be made redundant, you must include:

- voluntary redundancies – for example if you propose to make 22 employees redundant but 6 of them volunteer for redundancy, you must still collectively consult
- those you're redeploying or moving to alternative roles – for example if you propose to make 30 employees redundant and offer 15 of them alternative roles, you must still consult

You do not need to include:

- anyone on a fixed-term contract who's leaving because the agreed term is ending
- anyone who's already affected by collective consultation on a separate redundancy situation

You should not stagger redundancies to avoid consultation. For example, by making several smaller groups of staff redundant over a longer period of time.

If a claim is made to an employment tribunal, and the judge believes you staggered redundancies to avoid collective consultation, staff will be due compensation (a 'protective award').

## Checking if it's a single establishment

Collective consultation applies when there are proposals for at least 20 redundancies at a 'single establishment'.

A single establishment could be either an entire organisation, or a 'distinct entity' within an organisation. For example, it:

- manages its own workforce
- is reasonably permanent and stable
- can carry out the tasks it's assigned
- has its own technical means, equipment and organisational structure that allow it to carry out its function

You should still consider collectively consulting staff even if you do not have to, as it helps to cover all options before making decisions.

If you're thinking of making 20 or more redundancies but are not sure whether they're in a single establishment, you should [get legal advice](#).

If a case goes to an employment tribunal, the judge will consider whether the redundancies were in a single establishment.

### Example of when collective consultation might be needed

An accountancy firm of 100 employees is suffering losses. They need to make 25 redundancies in the next couple of months. The employer identifies 30 employees at risk of redundancy.

Because they're proposing to make 20 or more redundancies in the same establishment within 90 days, they need to hold collective consultation.

### Example of when collective consultation might not be needed

A manufacturing company wants to close 3 small sites and open one larger factory. Each site employs between 10 and 15 people. The total number of employees at risk of redundancy is more than 20.

Each site operates as a distinct entity from the wider business, so the redundancies would be handled separately. This means the business might not need to hold collective consultation. However, it would still be good practice to do so.

## Tell the government about collective redundancies

By law, you must inform the government's Redundancy Payments Service (RPS) about your planned redundancies.

You must do this before you issue any individual notice of dismissal, and at least:

- 30 days before the first dismissal, if there are between 20 and 99 redundancies
- 45 days before the first dismissal, if there are 100 or more redundancies

You could be fined if you do not notify the RPS.

[Find out how to notify the government of potential redundancies on GOV.UK](#)

## Contact the Acas helpline

If you have questions about collective consultation, you can [contact the Acas helpline](#).

You can speak to us at any point in the process. We can talk through any responsibilities and what you need to consider.

## 2. When to begin consultation

You must not decide on any redundancies before holding collective consultation.

There should be enough time to:

- consult employees and their representatives
- include anything you've agreed as part of the consultation

You must start consultation for:

- 20 to 99 redundancies – at least 30 days before the proposed date of any redundancy
- 100 or more redundancies – at least 45 days before the proposed date of any redundancy

It's a good idea to start earlier wherever possible, to make sure you meet consultation requirements.

## How long consultation lasts

There are no rules for how long consultation must last.

In a large or complicated redundancy situation, consultation may take longer than 30 or 45 days. But it may finish sooner if you reach an agreement. If consultation finishes sooner, you must not make anyone redundant before the end of the 30 or 45 days.

You do not need to reach an agreement to end the consultation. However, you must be able to show that:

- the consultation was genuine
- you tried to reach an agreement

If you do not do this, employees could make a claim to an employment tribunal. You could be ordered to pay compensation for up to 90 days' pay for each affected employee. This compensation is called a 'protective award'.

## Consulting individual employees

You should hold collective consultation first before holding individual consultation.

You may need to be flexible about how you arrange consultation. There may be situations when you need to run collective and individual consultations at the same time.

For example, an employer has agreed with employee representatives how many employees will be made redundant and how they'll be selected. They're still consulting with them about other redundancy-related issues. In this situation, it may be appropriate to start individual consultation with the affected employees.

[Find out more about consulting individual employees](#)

## 3. How to hold consultation

The purpose of collective consultation is to find ways to:

- avoid or reduce redundancies
- reduce the impact of redundancy on affected employees

Consultation should include:

- open and honest conversations about the redundancy process
- considering other options with employees and their representatives

You should discuss:

- your proposed changes
- any proposals from employees or their representatives
- ways to avoid or reduce the redundancies
- how to reduce the effect of the redundancies
- how employees are selected for redundancy

Employees will often have good ideas that may help to avoid redundancies. You do not have to agree to their proposals. But you must seriously consider any proposals for avoiding or reducing redundancies. If you do not do this, employees could claim the redundancy process has been unfair.

It's important to document all discussions and the reasons for your decisions.

[Find out more about individual consultation](#)

## Consult trade union or employee representatives

When collective consultation is needed, by law you must consult any recognised trade union. If there's no trade union, you must consult employee representatives.

Employee representatives are existing employees who can speak on behalf of the employees they represent.

### Electing employee representatives

To get employee representatives in place, you need to set up an election process.

There may already be an agreement that gives existing employee representatives the right to represent staff in redundancy situations.

For example, an [information and consultation agreement](#).

Employee representatives can be elected specifically for the consultation, but you may need to provide training for the role.

So that the election process is fair, you must make sure:

- employees who stand for election are affected by the redundancy when the election takes place
- affected employees are not stopped from standing for election
- affected employees are given the right to vote for employee representatives
- affected employees have enough votes – they must be able to vote for as many candidates as will represent their group of employees
- votes can be made secretly and counted accurately
- there are enough employee representatives elected to represent the interests of all affected employees

You should also consider how long employee representatives will be elected for. They must have enough time to complete consultation.

You should make sure there are enough representatives. This is so there's still representation if someone cannot attend a meeting, for example they're off sick.

If nobody is willing to be elected, you should consult with the affected employees directly. This should be a last resort.

## Consulting representatives

You must provide trade union or employee representatives with the following in writing:

- why you need to make redundancies
- how many redundancies you're considering
- roles at risk of redundancy (in a 'selection pool')
- your current ideas for how to select employees for redundancy
- your planned timeframes
- how you'll calculate redundancy pay
- if you're using agency workers, how many, where they're working and the type of work they're doing

You should provide as much information as possible before beginning consultation. If you cannot provide everything, you must provide enough to allow consultation to start. You must provide the rest in enough time to have meaningful consultation.

Consultation includes:

- arranging regular meetings
- being as open as possible
- listening to views
- genuinely considering proposals from both sides
- considering how employees will be selected for redundancy
- getting support for affected employees
- discussing what should be included in redundancy packages

Representatives should:

- tell employees about the proposals and share information
- ask employees for their views, suggestions and questions
- talk to other representatives and work out a collective staff response
- meet with management and give feedback on the staff response
- engage in open discussions to solve problems and reach agreements
- tell employees the outcome of consultations

## The rights of trade union and employee representatives

By law, trade union and employee representatives have the right to:

- reasonable paid time off for trade union duties
- reasonable time off for training
- reasonable access to employees and workplace facilities

You must not dismiss someone or treat them unfairly because they're a trade union or employee representative.

Find out more in the [Acas Code of Practice on time off for trade union duties and activities](#).

## 4. Failure to consult

If an employer does not meet consultation requirements, employees can [make a claim to an employment tribunal](#).

If the claim is successful, the employer may have to pay the employee or employees compensation (a 'protective award'). This can be up to 90 days' full pay for each affected employee.

## Special circumstances

In rare circumstances it may not be reasonably practical for an employer to collectively consult. In which case, the employer may be able to use a 'special circumstances' defence.

The employer would need to be able to prove it was not reasonably practical for them to comply with the consultation requirements. But they would still need to inform and consult employees as much as possible.

Special circumstances are not defined in law and each situation is considered on a case-by-case basis by the employment tribunal judge. Special circumstances are truly unexpected situations.

Employers who think it may not be reasonably practical for them to comply with consultation requirements should [get legal advice](#).

### Example of a special circumstance

If an employer suddenly and unexpectedly becomes insolvent, an employment tribunal might accept it's a special circumstance. But if an employer knew they were having financial difficulties for some time and did not meet consultation requirements, it may not be accepted as a special circumstance.

## 5. Follow the redundancy steps

You can only give an employee notice of redundancy once you've finished consulting everyone.

You should now [follow the next steps in making redundancies](#).